IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 17275 of 2007(F)

PETITIONER:

THE CHAIRMAN, SAN JOSE PARISH HOSPITAL
TRUST, PO PAVARATTY, TRICHUR - 680 507.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:
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1. THE SECRETARY (SPECIAL GRADE),
PAVARATTY GRAMA PANCHAYATH,
PO PAVARATTY, TRICHUR DISTRICT.

2. PAVARATTY GRAMA PANCHAYATH,
PAVARATTY PO, TRICHUR DISTRICT,
REPRESENTED BY ITS SECRETARY (SPECIAL GRADE).

3. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, DEPARTMENT OF LOCAL SELF GOVERNMENT
INSTITUTIONS, GOVERNMENT SECRETARIAT,
TRIVANDRUM - 695 001.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
GOVT. PLEADER SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF NOTICES DTD. 09-01-2006 ISSUED BY R2
EXT.P2	TRUE COPY OF REPLY TO EXT. P1 SUBMITTED BY PETITIONER
EXT.P3	TRUE COPY OF THE LETTER DTD. 3-10-06 ISSUED BY R1
EXT.P4	TRUE COPY OF LETTER DTD. 03-10-06 ISSUED BY R1
EXT.P5	TRUE COPY OF REPLY DTD. 09-10-06 SUBMITTED BY PETITIONER TO EXT.P3
EXT.P6	TRUE COPY OF REPLYDTD.09-10-06 SUBMITTED BY PETITIONER TO EXT.P4
EXT.P7	TRUE COPY OF RESOLUTION DTD.19-12-06 OF R1
EXT.P8	TRUE COPY OF INTIMATION CARD DTD. 24-01-07 ISSUED BY THE OFFICE OF HONOURABLE MINISTER.
EXT.P9	TRUE COPY OF NOTICE DTD. 31-01-07 ISSUED BY R1
EXT.P10	TRUE COPY OF RETURN DTD. 20-02-2007 FILED BY PETITIONER
EXT.P11	TRUE COPY OF RESOLUTION DTD. 12-03-2007 OF R1
EXT.P12	TRUE COPY OF LETTER DTD. 07-03-2007 SUBMITTED BY PETITIONER BEFORE R1
EXT.P13	TRUE COPY OF ORDER OF ASSESSMENT DTD.04-05-2007 ISSUED BY R1
EXT.P14	TRUE COPY OF DEMAND NOTICE DTD. 04-05-2007 ISSUED BY R1
EXT.P15	TRUE COPY OF DEMAND NOTICE DTD. 04-05-2007 ISSUED BY R1
EXT.P16	TRUE COPY OF PETITION DTD. 21-05-2007 SUBMITTED BY PETITIONER BEFORE R1
EXT.P17	TRUE COPY OF ORDER OF REJECTION DTD. 24-05-2007 ISSUED BY R1

RESPONDENT'S EXHIBITS

EXT.R1(A)	TRUE COPY OF THE ORDER OF THE THIRD RESPONDENT DTD. 16-4-07
EXT.R1(B)	TRUE COPY OF THE RESOLUTION DTD. 30-11-06 PASSED BY THE PANCHAYATH
EXT.R1(C)	TRUE COPY OF THE CONSUMER COMPLAINT DTD. 14-05-2007
EXT.R1(D)	TRUE COPY OF THE SUMMONS DTD. 31-05-2007

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(C).No. 17275 OF 2007

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Dated this the 26th day of July, 2007

JUDGMENT

Petitioner has approached this court seeking to quash Exts.P13, P14 and P15 which are assessment orders and demand notice purporting to claim building tax. A direction is also sought to respondents 1 and 2 not to proceed further in the matter pending disposal of the application for exemption from payment of property tax made by 1st and 2nd respondents vide Ext.P7 resolution before the Government. There is a further prayer to consider the request of the petitioner for exemption from payment of building tax and declare that Exts.P13, P14 and P15 are illegal.

Case of the petitioner in brief is as follows:

Petitioner is the Chairman of a trust which is running a hospital in the second respondent-Panchayat from 1949 onwards. It is stated to be a charitable institution providing free medical service to the poor and needy without any discrimination as to

caste or creed. It is running a nursing school and hostel recognised by the Government, it is stated. According to the petitioner, petitioner was called upon to file a return by Ext.P1 to which petitioner submitted Ext.P2 reply. He was again served with Ext.P3 and Ext.P4 seeking information regarding the use of new building. Petitioner immediately sent Exts.P5 and P6 reply, it is stated. The second respondent took up the request of the petitioner for exemption from property tax and resolved to refer the petitioner's application to the Government (Ext.P7). Petitioner was issued with Ext.P9 notice from the first respondent intimating fixation of tax in respect of the building at Rs. 1,92,620/- and calling upon him to file objections. Petitioner sent letter. Ext.P11 resolution is taken to defer the decision on tax till the Government took a decision on the request for exemption. Petitioner submitted Ext.P12 letter requesting to stop arbitrary proceedings. Thereafter petitioner received order of assessment and demand notices as Exts. P13, P14 and P15. Petitioner preferred Ext.P16 objection requesting the first respondent not to proceed further in the matter. This came to be met with Ext.P17 rejection.

2. I heard learned counsel for the petitioner, respondent-Panchayat besides the learned Government Pleader.

Panchayat has filed a counter affidavit. Learned counsel for the petitioner submits that the matter is pending consideration before the Government and till the Government decides the matter on the question of exemption, respondents may not proceed further in the matter.

3. Of course, the question arose under the Municipality Act relating to exemption from tax as provided in Section 235 of the Municipality Act 1994. A Division Bench of this court has categorically held that hospital run by charitable trust is not entitled to exemption.

The writ petition is disposed of directing the third respondent to consider and take a decision on the request of the petitioner seeking exemption in accordance with law after affording an opportunity of hearing to the petitioner and the second respondent-Panchayat within a period of two months from the date of receipt of a copy of this judgment. Till such time as a decision is taken, proceedings pursuant to the impugned order/notices shall be kept in abeyance.

(K.M.JOSEPH, JUDGE)

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